

### **REMARKS**

Claims 26, 28-33, 35-38 and 42-52 are now pending in this application. Claims 27, 34 and 39-41 have been cancelled, and claims 26, 30-36, 42, 43, 45-47, and 48-50 have been amended, by this Amendment. New claims 51 and 52 have also been added by this Amendment.

The Office Action dated June 2, 2006 objected to the specification because of alleged informalities. The Office Action also rejected claims 26-48 as being indefinite under 35 USC 112, second paragraph, and rejected claims 26-50 as being anticipated by prior art under 35 USC 102(e).

### **Summary of Claim Amendments**

In addition to the claim amendments made to address the indefiniteness rejection and discussed below, applicant has also made other amendments to the claims. Independent claims 26 and 49 have been amended to include the features recited in dependent claims 27, 39 and 40. Independent method claim 50 has been amended to include the features recited in dependent claims 27, 39 and 41.

New independent claim 51 is directed to a network element and recites substantially the same features as amended claim 50. New claim 52 is dependent on claim 51. In view of their incorporation into the independent claims, dependent claims 27 and 39-41 have been cancelled.

### **Objections to the Specification**

The objections to the specification are set forth in parts 1 and 2 on page 2 of the Office Action dated June 2, 2006. Specifically, it was alleged that the Abstract and the Brief Description of the Drawings section are missing from the application. It was also alleged that the last line in page 2 and the first two lines in page 3 do not seem to fit with the rest of the description, and that some description is missing at the end of page 6a and at the beginning of page 7.

In a telephone interview on September 1, 2006, and in a Request for Corrected Office Action filed on September 5, 2006, applicant explained that the Office Action addressed the wrong application papers. Specifically, this application is a 371 application based on PCT Application No. EP00/05055 filed on June 2, 2000 and published on December 14, 2000. The PCT application clearly included an abstract of the disclosure (on the first page of the publication) and the "Brief Description of the Drawings Section" (on page 6 of the publication). Pursuant to the telephone interview, it was realized that the changes made during Chapter II of the PCT application were mistakenly assumed to be applied to this application at the time of the Office Action. The Office Communication dated September 13, 2006 thus withdrew the objections to the specification.

### **Indefiniteness Rejection**

The grounds for the indefiniteness rejection of claims 26-48 under 35 USC 112, second paragraph, is set forth in part 4 on pages 2-3 of the Office Action. Specifically, in

claim 26, line 1, the rejection asserts that it is not clear whether it is a network or a communication resource which is being allocated. Claim 26 has been amended by this Amendment to clarify that the communication resources are being allocated. Claims 26, 30 and 35 have been amended to correct the typographical errors in the claims. Claims 30-32 have also been amended to be dependent on claim 29 which previously recited the common communication channel and the dedicated communication channel. Claim 34, the duplicate of claim 33, has been cancelled. Claim 43 is also amended to be dependent on claim 35 to make clear that the combined size recited in claim 43 clearly refers to the combination of two or more associated packets as recited in claim 35. Applicant respectfully submits that he has overcome the rejections by making the noted changes to the claims.

With respect to the "plurality of component parts" in claim 48, applicant respectfully submits that the claim is clear since the packet to be transferred comprises a plurality of parts which go to make up the packet. These parts may be, for example, a packet header, payload (body) and tail. In order to be definite under 35 USC 112, second paragraph, the claim must merely be clear in its scope; there is no requirement that the components parts must be specified.

### **Anticipation Rejection**

The grounds for the anticipation rejection of claims 26-50 under 35 USC 102(e) is set forth in part 6 on pages 3-5 of the Office Action. Specifically, claims 26-50 are rejected as being anticipated by the WCDMA embodiment having the Channel Select and Queue Length routines shown in Figs. 4 and 5 and discussed at col. 6, line 27, to col. 7,

line 8, of U.S. Patent No. 6,347,091 issued to Wallentin et al (for the sake of simplicity, this embodiment is hereinafter referred to simply as "Wallentin). Applicant respectfully traverses the anticipation rejection at least because it fails to establish a prima facie case that Wallentin contains each and everyone of the combination of features recited in the independent claims.

For example, amended independent claim 26 recites "the step of allocating one of the communication resources based on the size of at least one packet to be transferred"; and that "information relating to the size of the at least one packet to be transferred is provided to a network element performing the allocating step." The other amended independent claims, and thus all of the currently pending claims, recite substantially similar features.

Wallentin provides packet data services where packet data connections are established between a mobile station and radio access network. Specifically, Wallentin uses one of a plural of different types of radio channels bearing the packet data connections over a radio interface. Using the Channel Select routine shown in Fig. 4 of the patent, Wallentin determines the best type of channel to carry future packet data to be sent over the packet data connection from a single measured parameter. Specifically, the optimal channel type is dynamically/adaptively determined and allocated based on a single relatively simple parameter, that parameter being the amount of data currently stored in a connection queue.

Contrasting Wallentin now with the claims, instead of allocating one of the communication resources based on the size of at least one packet to be transferred as recited in the amended independent claims, Wallentin only determines the amount of

space remaining in each of the queues and uses that parameter. Wallentin does not allocate one of the communication resources "based on the size of at least one packet to be transferred" as recited in the claims. Nor is "information relating to the size of the at least one packet to be transferred" provided to a network element in Wallentin performing the allocating step." Thus, Wallentin does not anticipate any of the currently pending claims at least for these reasons.

Claims 26, 30-36, 42, 43, 45-47 and 48-50

In addition to the reasons set forth above, Wallentin also does not transfer information relating to the size of the at least one packet as a service primitive parameter. Thus, Wallentin does not anticipate claims 26, 30-36, 42, 43, 45-47 and 48-50, which recite this feature, for this additional reason.

Claims 50-52

In addition to the reasons set forth above, Wallentin also does not transfer information relating to the size of the at least one packet as "information element of a protocol data unit". In such a method or apparatus as recited in claims 50-52, less signaling overhead is required which therefore requires less hardware time. Wallentin provides no indication to the person skilled in the art of such a feature, which reduces the hardware time. Thus, Wallentin does not anticipate claims 50-52, which recite this feature, for this additional reason.

**Conclusion**

Applicant respectfully submits that all of the pending amended claims are allowable over Wallentin for at least the above reasons. A Notice of Allowance is therefore respectfully requested.

The Commissioner is hereby authorized to charge the amount for two-month extension of time and one extra independent claim, and any other fees that may be necessary for the consideration of this Amendment, or to credit any overpayment, to the undersigned attorney's Deposit Account No. 10-0100 (Docket. No. NOKIA.4008US).

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert Bauer", is written over a horizontal line.

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